

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

James Edward Brown,

Civil No. 08-4936 (DWF/JJG)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Ms. E. Alexander, DHO Officer,

Defendant.

James Edward Brown, *Pro Se*, Plaintiff.

This matter is before the Court upon Plaintiff James Edward Brown's ("Plaintiff") self-styled objections to Magistrate Judge Jeanne J. Graham's Report and Recommendation ("R&R") dated September 24, 2008, recommending that: (1) Plaintiff's application to proceed *in forma pauperis* be denied; (2) this action be summarily dismissed pursuant to 28 U.S.C. § 1914A(b)(1); (3) Plaintiff be required to pay the unpaid balance of the Court filing fee, namely \$336.67, in accordance with 28 U.S.C. § 1915(b)(2); and (4) for purposes of 28 U.S.C. § 1915(g), this action be dismissed "on the grounds that it is frivolous, malicious, or fails to state a claim on which relief may be granted." It should be noted the Court initially adopted the R&R on October 20, 2008, and then vacated the summary dismissal when it learned that the Plaintiff had been unable to respond in a timely fashion to the R&R because of being moved with all other male

inmates out of the Federal Correctional Facility at Waseca, Minnesota. At that time, the Court set the final submission date for the Plaintiff as December 30, 2008, to file objections to the R&R, which he complied with.

The Court has now conducted an additional *de novo* review of the record, including the objections of the Plaintiff and submissions of all parties, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the R&R and is incorporated by reference for purposes of Plaintiff's objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff James Edward Brown's objections (Doc. Nos. 11, 12, and 13) to Magistrate Judge Jeanne J. Graham's Report and Recommendation dated September 24, 2008, are **DENIED**.

2. Magistrate Judge Jeanne J. Graham's Report and Recommendation dated September 24, 2008 (Doc. No. 5), is **ADOPTED**.

3. Plaintiff's application to proceed *in forma pauperis* is **DENIED**.

4. This action is **SUMMARILY DISMISSED** pursuant to 28 U.S.C. § 1914A(b)(1).

5. Plaintiff is required to pay the unpaid balance of the Court filing fee, namely \$336.67, in accordance with 28 U.S.C. § 1915(b)(2).
6. For purposes of 28 U.S.C. § 1915(g), this action is **DISMISSED** “on the grounds that it is frivolous, malicious, or fails to state a claim on which relief may be granted.”

Dated: February 9, 2009

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court